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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,235	03/31/2004	John Joseph Bird	ROC920030368USI	8126
46296	7590	10/19/2007		
MARTIN & ASSOCIATES, LLC			EXAMINER	
P.O. BOX 548			NGUYEN, DUSTIN	
CARTHAGE, MO 64836-0548			ART UNIT	PAPER NUMBER
			2154	
			MAIL DATE	DELIVERY MODE
			10/19/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/815,235

Applicant(s)

BIRD ET AL.

Examiner

Dustin Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/31/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-40 are presented for examination.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 25-40 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. As per claims 25 and 34, the specification, pages 9 and 10, and claims 27 and 36, disclose intrinsic evidence of program product including "signal bearing media". It is not a machine, and it is clearly not a process, manufacture nor composition of matter, as such, it fails to fall within a statutory category of invention [Please see MPEP 2106].

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art [hereinafter as APA], in view of W. Townsley, A. Valencia, A. Rubens, G. Fall, G. Zorn, and B. Palter, "RFC 2661-Layer Two Tunneling Protocol" [hereinafter as Townsley].

5. As per claim 1, APA discloses the invention as claimed including an apparatus comprising:

(A) at least one processor [i.e. CPU] [page 2, lines 9-18];

(B) a memory coupled to the at least one processor [page 2, lines 9-18];

(C) a shared resource coupled to the at least one processor, wherein sharing of the shared resource is controlled by a shared resource server [i.e. modem] [320, 322, Figure 3; and page 10, lines 14-page 11, lines 3]; and

(D) a resource sharing mechanism residing in the memory and executed by the at least one processor [i.e. configuration] [Figures 2, 4 and 5; page 10, lines 3-13; and page 11, lines 4-page 12, lines 15].

APA does not specifically disclose the resource sharing mechanism including: a first mechanism that establishes a layer two tunneling protocol (L2TP) tunnel between the shared resource server and a client; a second mechanism that establishes an outgoing connection from the client through the shared resource via the L2TP tunnel using a plurality of messages defined by a predefined L2TP protocol for the L2TP tunnel; and a third mechanism that establishes an incoming connection through the shared resource to the client via the L2TP tunnel using a

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plurality of messages defined by user-defined extensions to the L2TP protocol for the L2TP tunnel.

Townsley discloses the resource sharing mechanism including: a first mechanism that establishes a layer two tunneling protocol (L2TP) tunnel between the shared resource server and a client [i.e. outgoing call request] [section 6.9-6.11, pages 52 and 53; and section 7.5, page 63-page 67]; a second mechanism that establishes an outgoing connection from the client through the shared resource via the L2TP tunnel using a plurality of messages defined by a predefined L2TP protocol for the L2TP tunnel [i.e. L2TP control messages] [section 3.2-4.1, page 11-page 13; and section 6.0-6.11, page 48-page 53]; and a third mechanism that establishes an incoming connection through the shared resource to the client via the L2TP tunnel using a plurality of messages defined by user-defined extensions to the L2TP protocol for the L2TP tunnel [i.e. vendor specific L2TP extension] [section 4.1-4.2, page 13-page 14; and section 6.6-6.8, page 50-page 52].

It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of APA and Townsley because the teaching of Townsley on L2TP would extend the PPP model by allowing the layer 2 and PPP endpoints to reside on different devices interconnected by a packet-switched network and user has an L2 connection to an access concentrator and the concentrator then tunnels individual PPP frames to the NAS [Townsley, section 1.0, page 3].

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6. As per claim 2, APA discloses wherein the client resides in a second logical partition on the apparatus that is separate from a first logical partition that includes the shared resource [310, 312, Figure 3; and page 10, lines 14-page 11, lines 3].

7. As per claim 3, APA discloses wherein the client comprises a computer system coupled to the apparatus via a network connection [304, Figure 3; and page 10].

8. As per claim 4, APA discloses wherein the shared resource comprises a modem [320, 322, Figure 3; and page 10].

9. As per claim 5, APA discloses wherein the shared resource comprises a virtual private network (VPN) [i.e. VLAN] [330, Figure 3; and page 10, lines 14-page 11, lines 3].

10. As per claim 6, Townsley discloses wherein the incoming and outgoing connections are point-to-point connections [section 1.0, page 3].

11. As per claim 7, Townsley discloses wherein the plurality of messages defined by the user-defined extensions to the L2TP protocol comprise an accept incoming call request message and an accept incoming call reply message [section 6.6-6.8, pages 50 and 51].

12. As per claims 8-12, they are rejected for similar reasons as stated above in claims 1, 2, 4-7.

13. As per claims 13-19, they are rejected for similar reasons as stated above in claims 1-7.
14. As per claims 20-24, they are rejected for similar reasons as stated above in claims 1, 2, 4-7.
15. As per claim 25, it is rejected for similar reasons as stated above in claim 1.
16. As per claim 26, APA discloses wherein the signal bearing media comprises recordable media [page 1].
17. As per claim 27, APA discloses wherein the signal bearing media comprises transmission media [page 1].
18. As per claims 28-33, they are rejected for similar reasons as stated above in claims 1-7.
19. As per claims 34, 37-40, they are rejected for similar reasons as stated above in claims 1, 2, 4-7.
20. As per claims 35 and 36, they are rejected for similar reasons as stated above in claims 26 and 27.

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21. A shortened statutory period for response to this action is set to expire **3 (three) months and 0 (zero) days** from the mail date of this letter. Failure to respond within the period for response will result in **ABANDONMENT** of the application (see 35 U.S.C 133, M.P.E.P 710.02, 710.02(b)).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dustin Nguyen whose telephone number is (571) 272-3971. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached at (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dustin Nguyen

Examiner

